

## SUMMARY OF FOIA FEE RULES

Freedom of Information Act (FOIA) requesters may have to pay fees covering some or all of the costs of processing their requests. Agency regulations define "fees" as the direct costs the Agency may charge a requester in accordance with the requirements of the FOIA. The FOIA establishes three types of fees: reproduction, search, and review costs. A requester's fee category will determine the fees the Agency may assess that requester. Agency regulations define four fee categories of FOIA requesters.

### FEE CATEGORY

Determination of the requester's fee category [by PIPD] is based on the information provided by the requester and the reasonable inferences that may be drawn from the identity and activities of the requester.

#### **Commercial**

1. Disclosure sought is primarily in the commercial interest of the requester, and
2. Which furthers such commercial, trade, income or profit interests.

Fees: Copy, Search, and Review Costs

#### **Representative of the News Media**

1. Individual actively gathering news for an entity that is organized and operated to publish and broadcast news (as defined below) to the American public, and
2. Pursuant to their news dissemination function and not their commercial interests.

News means information that—

- Concerns current events,
- Would be of current interest to the general public,
- Would enhance the public understanding of the operations or activities of the U.S. Government, and
- Is in fact disseminated to a significant element of the public at minimal cost.

Note: includes freelance journalists who can demonstrate a solid basis (publication contract or prior publication record) for expecting publication

Fees: Copy Costs Only -- Beyond the First 100 Pages

#### **Non-Commercial Educational or Scientific Institution**

1. (a) Accredited U.S. educational institution at any academic level or institution engaged in research concerning the social, biological, or physical sciences, or  
(b) An instructor or researcher or member of such institutions; and
2. Information will be-
  - Used in a specific scholarly or analytical work,
  - Contribute to the advancement of public knowledge, and
  - Disseminated to the general public.

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Fees: Copy Costs Only – Beyond First 100 Pages**“All Other”**

1. Any requester who does not fall within the other three categories
2. Examples include, but are not limited to:
  - People seeking information for personal use;
  - Public interest groups; and
  - Nonprofit organizations are examples of requesters who fall into the third group

Fees: Copy and Search Costs - Beyond the First 100 Pages and the First 2 hours of Search Time**TYPES OF FEES****Reproduction Costs**

- Generation of a copy of a requested record in a form appropriate for release

**Search Costs**

- All time expended in looking for and retrieving material that may be responsive to a request utilizing available paper and electronic indices and finding aids

**Review Costs**

- All time expended in-
  - ▶ Examining a record to determine whether any portion must be withheld pursuant to law, and
  - ▶ Effecting any required deletions.
- Excludes personnel hours expended in resolving general legal or policy issues.
- Review charges only include costs incurred during the initial examination of a document.

**FEE WAIVER**

If the requester has requested a fee waiver, the Agency [PIPD] will determine whether the Agency will grant the waiver. Generally, key elements in qualifying for a fee waiver are the relationship of the information to the public understanding of the operations or activities of government and the ability of the requester to convey that information to other interested members of the public. A requester is not eligible for a fee waiver solely because of indigence. A requester may request a fee waiver at any time before the release of documents or the completion of a case, provided that, if processing has been initiated, the requester has agreed to be responsible for costs in the event of an adverse decision.

**Determination Required to Grant Fee Waiver**

Agency regulations require fee waivers to be granted upon a determination that-

1. As a matter of administrative discretion, the interest of the U.S. Government would be served, or

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2. It is in the public interest because the disclosure—

- Is likely to contribute significantly to the public understanding of the operations or activities of the federal government, and
- Is not primarily in the commercial interest of the requester.

**Factors to Consider in Making Public Interest Determination**

1. Subject of Request: Whether the subject of the request concerns the operations or activities of the federal government; and, if so,

2. Effects of Disclosure on Public Understanding: Whether the disclosure of the requested documents—

- Is likely to contribute to an understanding of federal government operations or activities; and, if so,
- Will contribute to public understanding of federal government operations or activities; and, if so,
- Is likely to contribute significantly to public understanding of federal government operations and activities; and
- Requester's Commercial Interest:
  - ▶ Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so,
  - ▶ Whether the disclosure is primarily in the commercial interest of the requester.

**NO FEES CHARGED**

- No fees will be charged if the fee is equal to or greater than \$10.00.
- No fees will be charged for requesters seeking records about themselves under the FOIA.

**FEE ESTIMATES**

- The requester must provide a specific fee commitment whenever the Agency estimates that fees will exceed \$100.00.
- If the requester has requested a fee estimate, the Agency:
  - ▶ Generally will provide an accurate estimate within 20 days of the request, and
  - ▶ Will not accrue or charge fees in excess of the estimate without the specific permission of the requester.

**ADVANCE DEPOSIT**

The Agency may require an advance deposit of up to 100 percent of the estimated fees when-

1. (a) Fees may exceed \$250.00, and  
(b) Requester has no history of payment, or
2. For fees of any amount, there is evidence that the requester may not pay the fees.

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28-Feb-2014